Take-over of a Géant Casino hypermarket in Martinique: the Autorité opens an in-depth examination

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The Parfait group (hereinafter "Parfait") and the Association des Centres Distributeurs E. Leclerc (hereinafter "ACDLec") notified the *Autorité de la concurrence* of the joint take-over of a hypermarket previously operated by the Ho Hio Hen group under the Casino trade name (Géant la Batelière[1]), located in Schœlcher, Martinique.

The *Autorité de la concurrence* has decided to open an in-depth examination on the basis that the transaction could raise major competition issues.

Parties to the transaction

Parfait operates in the car retail, food retail and interior decoration retail sectors through various companies mainly active in Martinique, but also in Guadeloupe. It currently operates three hypermarkets in Martinique under the Leclerc trade name, at Lamentin and Fort-de-France.

ACDLec is the body that defines the strategy of the E. Leclerc movement. Its members are the natural persons managing the companies operating E. Leclerc stores.

The target (store taken over) is a hypermarket with a surface area of 2,693 square metres, operated under the Géant Casino trade name, at Schœlcher, close to Fort-de-France, on the Fort-de-France plain in Martinique.

Phase 1 investigation

In its examination of this transaction, following several consultations with market stakeholders (retailers, suppliers, etc.), the *Autorité* considered that the planned transaction, which would strengthen one of the main players in the food retail sector in Martinique, warranted an in-depth examination phase ("phase 2"). In the area in question, the transaction would strengthen the Parfait group and cause a hypermarket retailer (Casino) to disappear, creating a risk of reduced competition between the two main hypermarket retailers in the area (Carrefour and E. Leclerc).

The opening of this in-depth examination will lead to a ruling by the *Autorité* on the effects of this transaction on local food retail markets.

Issues studied during the in-depth examination (phase 2)

During its in-depth examination, the *Autorité* will conduct an extended consultation with market stakeholders (competitors, retailer suppliers, etc.).

In particular, the *Autorité* will extend competitive analysis of the retail food distribution markets to include local characteristics and the capacity of established stakeholders or new entrants to exert sufficient competitive pressure on the parties to maintain price competition and diversity of choice for consumers.

It will also examine whether account should be taken of the risk of inevitable closure of the store in the short term, alleged by the notifying parties, if the transaction does not take place ("failing company defence[2]").

Provisional timetable

The applicable regulations call for phase 2 take-over reviews to be conducted, in principle, within 65 working days of the start of phase 2, although this period may

be extended if necessary.

The opening of a phase 2 examination does not imply that anticompetitive effects exist and is without prejudice to the outcome of the request for clearance of the take-over.

- ***The full text of the decision to progress to Phase 2 will be published shortly on the Autorité's website***

[1] The Autorité granted a derogation from the suspensive effect for the take-over of the store. In certain exceptional circumstances, duly substantiated by the parties, the Autorité may grant a derogation enabling them to proceed with all or part of the transaction before the clearance decision has been issued, to enable them to continue operating. The granting of a derogation by the Autorité does not in any way prejudice the final decision taken on completion of its examination of the case.

[2] In exceptional cases, a transaction that harms competition and whose economic efficiency gains are not sufficient to offset this harm may be cleared all the same if the company being taken over is a failing company, there is no better buyer according to the competitive analysis, and the harm to competition would not be less serious if the company were to cease to exist.

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